

No. 9/5/84-6Lab/3568.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Friends Auto (India) Pvt. Ltd., 38-A, Industrial Area, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 266/1982

between

SHRI RATTAN SINGH AND THE MANAGEMENT OF M/S FRIENDS AUTO (INDIA)
PVT. LTD., 38-A, INDUSTRIAL AREA, FARIDABAD.

Present :—

Shri Amar Singh Sharma, representative, for the workman.

Shri R. C. Sharma, representative, for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute to this Tribunal between Shri Rattan Singh, workman and the management of M/s Friends Auto (India) Pvt. Ltd., 38-A, Industrial Area, Faridabad, for determination :—

Whether the termination of services of Shri Rattan Singh was justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to both the parties. The workman in his claim dated 8th September, 1982, alleged that he was employed with the management on 16th June, 1981 as Milling Operator on a permanent job and was getting Rs. 435.00 per month at the time of termination of his service and had given no chance of any complaint during the service period. It was then alleged that the services of the workman were terminated illegally and wrongfully in a revengeful spirit because he was demanding his wages which were not paid to him and that no charge-sheet was given to him nor any domestic enquiry was held against him. It was, therefore, prayed that he be reinstated with full back wages.

3. The Management in their written statement pleaded that the workman was working as Milling Operator with effect from 1st July, 1981 and was getting Rs. 435 per month. It was pleaded that the Section in which the workman was working ceased working completely as there was no work and that the services of all the workmen employed in Milling Section were terminated on 17th April, 1982. It was further pleaded that Shri Rattan Singh was offered letter of termination on 17th April, 1982 when he came to the factory but he refused to receive such letter and also dues amounting to Rs. 652.50. It was then pleaded that the letter of termination was sent but the same was received back as undelivered because the workman was not available on that address. It was pleaded that it was a case of termination of service due to closure of section. The workman in his rejoinder dated 29th October, 1982 reiterated the plea taken in the claim petition.

3. On the pleadings of the parties, the following issue was framed :—

Whether the termination of service of Shri Rattan Singh was justified and in order ? If not, to what relief is he entitled ?

The Management examined 4 witnesses and documents Ex. M-1 to M-2 were tendered into evidence. The workman appeared in the witness box. After going through the evidence, both oral and documentary, and hearing both the sides, my finding on the above issue is as under :—

4. The Management examined Shri Shiv Shanker Sharma, Foreman, who deposed that Shri Rattan Singh workman was employed as Milling Operator and Milling Section was closed, due to which the services of all the workman employed in that section were terminated. MW-2 K. V. Chauhan,

Time Keeper proved the documents Ex. M-1 to Ex. M-7. Ex. M-1 is the appointment letter of the workman. Ex. M-2 is postal envelopes while Ex. M-3 the application sent by the workman dated 13th April, 1982 alongwith Medical Certificate Ex. M-4. Ex. M-5 is the order dated 17th April, 1982 by which the services of the workman were terminated due to closure of the section and he was asked to receive Rs 652.50 as compensation etc. Ex. M-6 is the voucher for the sum of Rs 652-50. Ex. M-7 is registered envelope which was received back as undelivered. MW-2 Shri K. V. Chauhan also stated that the workman had refused to receive the letter Ex. M-5 and also the amount mentioned in the voucher Ex. M-6. MW-3 Shri Shyam Karan, Accountant, stated that the Voucher Ex. M-6 was prepared by him and that the workman had refused to receive the amount. He also proved copy of the entry from the account of unpaid wages relating to the present workman. He also proved the photostat copy of daily stock account Ex. M-2. MW-4 Shri Mohan Singh, Director of the management, stated that the Milling Section was closed due to paucity of work and that the services of all the workmen employed in that section were terminated. He further stated that the present workman refused to receive the letter of termination Ex. M-5. He further stated that the management had no enmity or ill will against the workman. Shri Rattan Singh, workman, appeared as WW-1 had stated that person, junior to him were working in the factory and that no compensation was given to him at the time of termination of services. He further stated that no alternative job was offered to him.

5. A perusal of the above evidence would show that the present workman was employed in the Milling Section as Milling Operator, which Section was closed due to paucity of work as stated by MW-1 Shri Shiv Shanker and MW-4 Shri Mohan Singh, Director of the Management. They have deposed that services of all the workmen employed in that section were terminated due to the closure of that Section. The testimony of MW-2 Shri K. V. Chauhan and MW-3 Shri Shyam Karan, shows that the present workman had refused to receive the amount of compensation etc. for which purpose the voucher Ex. M-6 for the sum of Rs 652-50, was prepared and that he had also refused to receive the letter terminating services Ex. M-5. The oral as well as documentary evidence goes to prove that the service of the workman were terminated on account of closure of Milling Section and that besides the present workman, the services of all the remaining workmen of that section were terminated. As such the testimony of Shri Rattan Singh, Workman (WW-1) does not help him because in the claim statement it was nowhere mentioned by him that the Management had not provide him any alternative job. Moreover, it was not stated in the claim statement as to what type of alternative job was available in the factory which could be offered to him. If no alternative job was available, the same could not be offered to the workman. In the present case, there is no plea that any alternative job was available with the management because the job of Milling Operator is different from other jobs. As regard the plea taken by the workman that no compensation etc. was given to him, the same is without any force because it has come in evidence led by the management that the workman refused to receive the amount of compensation etc. on the basis of the voucher Ex. M-6 amounting to Rs 652.50. The representative of the management stated at the time of argument that this amount of Rs 652.50 can be received by the workman from the management even now. In the ruling reported as Sunder Singh and another V/s Beas Construction Board, New Delhi and others-1979-Lab. I-C-page 12, it is laid down that in cases relating to closure of undertaking, falling under section 25 FFF of the Industrial Disputes Act, payment of retrenchment compensation is not a condition precedent and that retrenchment compensation had not be paid alongwith discharge notice. In view of the above discussion, it is held that the termination of services of Shri Rattan Singh, workman, due to closure of Milling Section was justified and in order and as such the workman is not entitled to any relief because the amount of compensation etc. amounting to Rs 652-50 can be received by him from the management at any time. The award is passed accordingly.

R. N. BATRA,

Dated, the 15th May, 1984.

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 336, dated the 16th May, 1984.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.